IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.4.2006.

CORAM

THE HONOURABLE MR. JUSTICE P.SATHASIVAM
and
THE HONOURABLE MR. JUSTICE J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.137 of 2006

Kala Duraipandian ... Petitioner

vs.

1. The Secretary to the Government
of Tamil Nadu,
Prohibition and Excise Department.,
Fort St. George, Madras 600 009.

2. The District Magistrate and
District Collector,
Pudukottai District,
Pudukottai. ... Respondents

PRAYER : Writ Petition under Article 226 of the Constitution of India seeking to issue a Writ of Habeas Corpus calling for the records relating to the detention order in Ref. No.P.D.O.No.15/2005 dated 4.12.2005 passed by the second respondent and quash the same and further directing the respondents to produce the body of the person of the detenu namely Duraipandian son of Sivaperumal before this Honourable Court, who is now detained under Act 14/1982 and confined at the Central Prison, Tiruchirapalli and set him at liberty.

For Petitioner : Mr.AR.L.Sundaresan Senior Counsel for Mr. M. Rajasekar
For Respondents : Mr.M.K.Subramanian, Government Advocate (Crl. Side)

(Order of the court was made by P.SATHASIVAM, J.)

Petitioner is the wife of the detenu. She challenges the detention order Ref. No.P.D.O.No.15/2005 dated 4.12.2005 passed by the second respondent.

2. Heard both sides. At the foremost, the learned counsel for the petitioner submitted that there is delay in disposal of the representation which vitiates the detention order.

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3. The particulars furnished by the learned Government Advocate show that the representation was received by the Government on 14.12.2005. Remarks were called for on 19.12.2005. Remarks were received on 2.1.2006. The Under Secretary and the Deputy Secretary dealt with the file on 3.1.2006. Finally, the Minister for Prohibition and Excise passed order on 4.1.2006 and rejection letter was prepared on 5.1.2006 and it was sent to the detenu on 6.1.2006 which was served on 11.1.2006.

4. As rightly pointed out by the learned counsel for the petitioner, though the office of the Collectorate received the representation from the Government 21.12.2005, remarks were called from the Sponsoring authority on 23.12.2005 and remarks were received from the Sponsoring Authority by the Collectorate on 26.12.2006, having received the materials/information, it is not clear as to why the office of the Collectorate kept those materials till 31.12.2005. Only on the fifth day, the office of the Collectorate sent the report to the Government for necessary action. In the absence of proper explanation by the person concerned for taking time from 26.12.2005 to 31.12.2005, we hold that the delay is on the higher side which, ultimately, vitiates the order of detention. On this ground, the detention order is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

ssk.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
   State of Tamil Nadu,
   Prohibition and Excise
   Department, Fort St. George,
   Chennai-600 009.

2. The District Magistrate and
   District Collector,
   Pudukottai District, Pudukottai.

3. The Superintendent, Central Prison,
   Tiruchirapalli.

4. The Public Prosecutor, High Court,
   Chennai-600 104.

5. The Joint Secretary to the
Government of Tamil Nadu
Public (Law and Order) Department
Fort Saint George, Chennai 9.

NG(CO)
NM(04.05.2006)

H.C.P. No.137/2006

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